

Senate Bill No. 1369

Passed the Senate August 17, 2004

Secretary of the Senate

Passed the Assembly August 9, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Section 51182 of the Government Code, and to amend Section 4291 of the Public Resources Code, relating to fire protection.

LEGISLATIVE COUNSEL'S DIGEST

SB 1369, Kuehl. Fire protection.

(1) Existing law requires any person who owns, leases, controls, operates, or maintains any occupied dwelling or occupied structure in, upon, or adjoining any mountainous area, forest-covered land, brush-covered land, grass-covered land, or any land that is covered with flammable material, which area or land is within a very high fire hazard severity zone designated by the local agency, as provided, to, among other things, maintain around and adjacent to the occupied dwelling or occupied structure additional fire protection or firebreaks made by removing all brush, flammable vegetation, or combustible growth that is located from 30 to 100 feet from the occupied dwelling or occupied structure or to the property line, whichever is nearer, as may be required by the local agency if the agency finds that, because of extra hazardous conditions, a firebreak of only 30 feet around the occupied dwelling or occupied structure is not sufficient to provide reasonable fire safety.

(2) Existing law requires a person that owns, leases, controls, operates, or maintains a building or structure, in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material, to, among other things, maintain around and adjacent to the building or structure additional fire protection or a firebreak, by removing all brush, flammable vegetation, or combustible growth that is located from 30 to 100 feet from the building or structure or to the property line, whichever is nearer, as may be required by the Director of Forestry and Fire Protection, if he or she finds that, because of extra hazardous conditions, a firebreak of only 30 feet around the building or structure is not sufficient to provide reasonable fire safety. For purposes of these requirements, "person" is defined as any agency of the state, county, city, district, or other local public



agency, and any individual, firm, association, partnership, business trust, corporation, limited liability company, or company.

(3) This bill would define “person” for purposes of (2) above to instead mean a private individual, organization, partnership, limited liability company, or corporation.

This bill would revise (1) and (2), above, to require persons subject to (1) or (2) to remove all brush, flammable vegetation, or combustible growth that is located within 100 feet from the occupied dwelling or occupied structure, or building or structure, as applicable, or to the property line, or at a greater distance if required by state law, or local ordinance, rule, or regulation.

The bill would require an owner, prior to constructing a new dwelling or structure that will be occupied, or reconstructing an occupied dwelling or occupied structure damaged by fire in a very high fire hazard severity zone (see (1) above), the construction or rebuilding of which requires a building permit, to obtain from the local building official, a specified certification regarding compliance with state and local building standards, and to provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage. The bill would require the owner, upon completion of construction or rebuilding, to obtain from the local building official, a copy of the final inspection report, as specified, and to provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure. The bill would impose similar requirements upon an owner, prior to constructing a new building or structure or rebuilding a building or structure damaged by fire in one of the areas specified in (2) above. Because the bill would expand the definition of a crime, the bill would impose a state-mandated local program.

(4) Existing law provides that a local agency having jurisdiction of property violating the conditions described in (2) above is required to notify the owner of the property to correct the conditions. If the owner fails to correct the conditions, the local agency is authorized to cause the corrections to be made, and the expenses incurred become a lien on the property when recorded, as specified, in the county recorder’s office in the county in which the real property is located.

The bill would authorize the Director of Forestry and Fire Protection to authorize the removal of vegetation not consistent



with these and related requirements. The bill would authorize a lien upon the building, structure, or grounds for the expense of the removal of that vegetation, as specified.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 51182 of the Government Code is amended to read:

51182. (a) Any person who owns, leases, controls, operates, or maintains any occupied dwelling or occupied structure in, upon, or adjoining any mountainous area, forest-covered land, brush-covered land, grass-covered land, or any land that is covered with flammable material, which area or land is within a very high fire hazard severity zone designated by the local agency pursuant to Section 51179, shall at all times do all of the following:

(1) Maintain around and adjacent to the occupied dwelling or occupied structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side thereof or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This paragraph does not apply to single specimens of trees, ornamental shrubbery, or similar plants that are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any dwelling or structure.

(2) Maintain around and adjacent to the occupied dwelling or occupied structure additional fire protection or firebreaks made by removing all brush, flammable vegetation, or combustible growth that is located within 100 feet from the occupied dwelling or occupied structure or to the property line, or at a greater distance if required by state law, or local ordinance, rule, or regulation. This section does not prevent an insurance company that insures an occupied dwelling or occupied structure from requiring the owner of the dwelling or structure to maintain a firebreak of more than 100 feet around the dwelling or structure if a hazardous condition



warrants such a firebreak of a greater distance. Grass and other vegetation located more than 30 feet from the dwelling or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.

(3) Remove that portion of any tree that extends within 10 feet of the outlet of any chimney or stovepipe.

(4) Maintain any tree adjacent to or overhanging any building free of dead or dying wood.

(5) Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.

(6) Provide and maintain at all times a screen over the outlet of every chimney or stovepipe that is attached to any fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed and installed in accordance with the California Building Standards Code.

(7) Prior to constructing a new dwelling or structure that will be occupied or rebuilding an occupied dwelling or occupied structure damaged by a fire in such zone, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure.

(b) A person is not required under this section to maintain any clearing on any land if that person does not have the legal right to maintain the clearing, nor is any person required to enter upon or to damage property that is owned by any other person without the consent of the owner of the property.



SEC. 2. Section 4291 of the Public Resources Code is amended to read:

4291. A person that owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material, shall at all times do all of the following:

(a) Maintain around and adjacent to the building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side of the building or structure or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This subdivision does not apply to single specimens of trees, ornamental shrubbery, or similar plants that are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

(b) Maintain around and adjacent to the building or structure additional fire protection or firebreak made by removing all brush, flammable vegetation, or combustible growth that is located within 100 feet from the building or structure or to the property line or at a greater distance if required by state law, or local ordinance, rule, or regulation. This section does not prevent an insurance company that insures a building or structure from requiring the owner of the building or structure to maintain a firebreak of more than 100 feet around the building or structure. Grass and other vegetation located more than 30 feet from the building or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.

(c) Remove that portion of any tree that extends within 10 feet of the outlet of a chimney or stovepipe.

(d) Maintain any tree adjacent to or overhanging a building free of dead or dying wood.

(e) Maintain the roof of a structure free of leaves, needles, or other dead vegetative growth.

(f) Provide and maintain at all times a screen over the outlet of every chimney or stovepipe that is attached to a fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed of nonflammable material with openings of not more than one-half inch in size.



(g) Prior to constructing a new building or structure or rebuilding a building or structure damaged by a fire in such an area, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure.

(h) Except as provided in Section 18930 of the Health and Safety Code, the director may adopt regulations exempting structures with exteriors constructed entirely of nonflammable materials, or conditioned upon the contents and composition of same, he or she may vary the requirements respecting the removing or clearing away of flammable vegetation or other combustible growth with respect to the area surrounding those structures.

No exemption or variance shall apply unless and until the occupant thereof, or if there is not an occupant, the owner thereof, files with the department, in a form as the director shall prescribe, a written consent to the inspection of the interior and contents of the structure to ascertain whether this section and the regulations adopted under this section are complied with at all times.

(i) The director may authorize the removal of vegetation that is not consistent with the standards of this section. The director may prescribe a procedure for the removal of that vegetation and make the expense a lien upon the building, structure, or grounds, in the same manner that is applicable to a legislative body under Section 51186 of the Government Code.



(j) As used in this section, “person” means a private individual, organization, partnership, limited liability company, or corporation.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2004

Governor

